

Cyprus – Kazakhstan Double Taxation Treaty

July 2019

On 15 May 2019, the governments of the Republic of Cyprus and the Republic of Kazakhstan signed for the first time a Double Taxation Treaty (DTT) with respect to taxes on income. The DTT is expected to enter into force from 1 January 2020, provided that the ratification process is completed by both contracting states during 2019.

The DTT is based on the OECD Model Convention for the Avoidance of Double Taxation on Income and incorporates the minimum standards of the Base Erosion Profit Shifting (BEPS) project Action 6 (Treaty Abuse). Furthermore, it contains standards on the exchange of financial and other information in accordance with Article 26 of the Model Convention.

The DTT adds to the wide range of DTTs maintained by Cyprus and is expected to enhance economic and trade relations between Cyprus and Kazakhstan.

The most significant provisions of the new treaty are summarised below:

Dividends

- 5% withholding tax rate if the beneficial owner of the dividend is a company (other than a partnership) holding directly at least 10% of the capital of the company paying the dividend
- 15% withholding tax in all other cases

Interest

- 10% withholding tax rate on interest payments if the recipient is the beneficial owner of the income
- No withholding tax should apply on interest payments where the beneficial owner of the interest is the government of the other contracting

state, a political subdivision, a central or local authority, the central bank or any other financial institution wholly owned by the government of the other contracting state

Royalties

- 10% withholding tax rate on royalty payments if the recipient is the beneficial owner of the income

Note: Cyprus' domestic tax legislation does not apply any withholding tax on dividend, interest and royalty payments to non-Cyprus tax residents (except in the case of royalty payments earned on rights used within Cyprus).

Capital Gains

- Gains derived by a resident of a contracting state from the alienation of shares or similar interests in the capital of a company deriving more than 50% of their value directly or indirectly from immovable property situated in the other contracting state, may be taxed in that other contracting state
- The above does not apply to gains derived from alienation of shares listed on an approved stock exchange

Other Income

Any income not mentioned specifically in the DTT should be taxed only in the contracting state that the recipient of the income resides in.

Permanent Establishment

The DTT includes a definition of "permanent establishment", used to determine the threshold for taxation of business profits in the source state. The wording is largely in line with the wording

of the OECD Model Tax Convention on income. The DTT provides that the term “permanent establishment” also includes:

- a building site, a construction, assembly or installation project or any supervisory activity in connection with such site or project if it lasts for a period of more than six (6) months within any 12-month period
- the furnishing of services, including consultancy services, by a resident through employees or other personnel engaged by the resident for such purpose or through a related party, but only where activities of that nature continue (for the same or a connected project) within the contracting state for a period or periods aggregating more than 183 days in a 12-month period

How Trident Trust Company (Cyprus) Limited Can Assist

- Incorporation of Cyprus companies
- Ongoing company administration, registered office and company secretarial services, including compliance and board meetings
- Directorship and nominee shareholder services
- Bank account opening, administration and signatory services
- Ensuring compliance with Cyprus regulations
- Accounting, bookkeeping and VAT services
- Liaison with the external auditors in respect of annual audit
- Legal services (through associates)
- Tax advice (through associates)
- Office facilities – both physical¹ and virtual

If you or your clients would like to discuss these developments, please contact your usual Trident contact or our Cyprus office by telephone at +357- 258-20-650 or email at cyprus@tridenttrust.com.

¹Subject to availability

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